

REMARKS

I. INTRODUCTION

Upon entry of the present amendment, claims 1, 3-8 and 12-19 will be pending in the present application. Claims 1 and 12-18 have been amended. Claim 1 has been amended to recite that the skirt has a relatively rigid upper portion, and a relatively flexible lower portion. Support for the amendments to claim 1 can be found, *inter alia*, on page 4, paragraph 6 of the specification. Claims 12-18 have been amended merely to maintain proper dependency. No new matter has been added herein by the present amendment.

In view of the foregoing amendments and the following remarks, Applicants respectfully submit that the claims are now in condition for allowance. Applicants point out that the amendments made herein are made without prejudice to the future prosecution of such cancelled, amended or modified subject matter in a related divisional, continuation or continuation-in-part application.

II. REJECTIONS UNDER 35 U.S.C. § 112, second paragraph

Claims 12-18 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. According to the Examiner claims 12-15 depend from cancelled claim 10 and claims 16-18 depend from cancelled claim 2. Applicants have amended claims 12-18 whereby these claims now depend from claim 1, as the subject matter of cancelled claims 2 and 10 had previously been incorporated in claim 1. Accordingly, applicants submit that claims 12-18, as amended, clearly define the currently claimed invention. Therefore, applicants respectfully request withdrawal of the rejections of claims 12-18 under 35 U.S.C. §112, second paragraph.

III. REJECTIONS UNDER 35 U.S.C. § 102

Claims 1, 3-8, and 19 stand rejected under 35 U.S.C. §102(b) as being anticipated by US 5,294,015 ("Landis"). According to the Examiner Landis teaches an arrangement comprising an open-ended container and closure therefore. The container, according to the Examiner, comprises at least one projection extending at least partially around its outer surface adjacent the rim of its open, upper end. The Examiner asserts that the closure comprises a cover for extending over the open upper end and a skirt depending therefrom having an upper portion at a lead line and a lower portion below a hinge line. According to the Examiner the lower portion could also be considered the portion extending at and below projections 48 in Landis. The Examiner asserts that the lower portion of the skirt may be flipped between a raised configuration for mounting and removal of the cover on the container and a lowered configuration in which it engages with the projection of the container thereby to retain the cover on the container. Further, according to the Examiner the whole of the lower portion of the skirt is divided into at least two discrete peripheral sections. In addition, the Examiner asserts that the channel is shown at 40 and the inwardly directed projection is shown at 48 which engages with 46, as shown in figure 11. Finally, the Examiner asserts that the slits are formed after initial tearing of the frangible lines as discussed in Landis. Applicants respectfully submit that these anticipation rejections should be withdrawn for at least the following reasons.

Claim 1 is directed to an arrangement comprising an open-ended container and closure therefore, wherein the container comprises at least one projection extending at least partially around its outer surface adjacent the rim of its open, upper end, and wherein the closure comprises a cover for extending over the

open upper end and a skirt depending therefrom having an upper and a lower portion, whereby the lower portion of the skirt may be flipped between a raised configuration and a lowered configuration in which it engages with the projection of the container. As amended, the claimed invention requires that the skirt has a relatively rigid upper portion, and a relatively flexible lower portion.

Landis discloses an arrangement comprising an open-ended container and a closure therefore. The upper end of the open-ended container includes a projection and the closure includes a skirt having an upper portion and a lower portion. According to the Examiner, in Landis the upper portion is above lead line 60, the lower portion below projection 48, with an intermediate portion in between. Taking this in consideration, the projection 48 does not divide an upper and lower portion, but instead divides a lower portion from a combined upper and intermediate portion with the hinge point 60 further dividing the upper and intermediate portions, which is contrary to the currently claimed invention.

Further, the currently claimed invention requires the upper portion as being relatively rigid, and the lower portion being relatively flexible. The lower portion as in Landis as described above cannot be relatively flexible compared to the upper portion since it is not required to hinge.

Thus, the disclosure in Landis is in contrast to the currently claimed invention where it is the projection which divides the upper and lower portions, and the upper and lower portions move relative to each other about the projection, as required, while Landis does not disclose a hinge point at the projection. Therefore, Landis fails to disclose all elements of the currently claimed invention, as amended.

Accordingly, for at least the preceding reasons, it is respectfully submitted that the rejections of the claims under 35 U.S.C. § 102(b) have been overcome and should therefore be withdrawn.

IV. CONCLUSION

Applicants respectfully submit that the pending claims are in condition for allowance and request that such action be taken. If for any reason the Examiner believes that prosecution of this application would be advanced by contact with the Applicants' attorney, the Examiner is invited to contact the undersigned at the telephone number below.

Respectfully submitted,

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